

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

<p>SABRINA L. SCHMIDT,</p> <p>Plaintiff,</p> <p>-VS-</p> <p>MONARCH RECOVERY MANAGEMENT, INC., a.k.a. ACADEMY COLLECTION SERVICE, INC.,</p> <p>Defendant.</p>	<p>Civil Action No. _____</p>
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COMPLAINT & DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff Sabrina L. Schmidt brings this action for actual and statutory damages resulting from the Defendant's various violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA"), a law that prohibits debt collectors from using abusive, deceptive, and unfair practices in an attempt to collect a debt.

JURISDICTION & VENUE

2. This honorable Court possesses jurisdiction over this matter pursuant to 15 U.S.C. §1692k(d) and 28 U.S.C. § 1331.
3. Additionally, venue in this district arises pursuant to 28 U.S.C. §1391(b) since the Defendant transacts business here and the conduct complained of occurred here.

PARTIES

4. Plaintiff Sabrina L. Schmidt is a natural person residing in the County of Monroe, State of New York, and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).
5. Defendant Monarch Recovery Management, Inc., a.k.a. Academy Collection Service, Inc., (hereinafter "Monarch") is a foreign business corporation organized and existing under the laws of the State of Pennsylvania and is a "debt collector" as that term is defined by 15 U.S.C. §1692a(6).
6. Any and all acts of the Defendant hereinafter alleged were performed by its employees or agents, while under the scope of Defendant's actual or apparent authority.

7. Any and all references to “Defendant” herein shall include the Defendant named and/or any employee or agent of said Defendant.

FACTUAL ALLEGATIONS

8. That Plaintiff Sabrina L. Schmidt is alleged to have incurred and later defaulted on a personal debt. Said alleged debt will hereinafter be referred to as “the subject debt.”
9. The subject debt is a “debt” as that term is defined by 15 U.S.C. §1692a(5), as it allegedly arose out of a transaction in which money, services or property, which was the subject of the transaction, was primarily for personal, family and/or household purposes.
10. That upon information and belief, Defendant Monarch was employed following Plaintiff’s alleged default, in order to collect payment on the subject debt.
11. That beginning in or about February of 2009, Defendant Monarch began calling Plaintiff Schmidt repeatedly and continuously in an attempt to collect the subject debt.
12. That for the next several months, Defendants Monarch placed over one hundred and fifty (150) telephone calls to Plaintiff Schmidt’s telephone in an attempt to collect the subject debt.
13. That Defendant routinely called Plaintiff Schmidt upwards of three (3) or more times daily over that several month time span.
14. That as a result of Defendant’s abusive and harassing conduct, Plaintiff Schmidt became extremely upset, frustrated and otherwise suffered from emotional distress.

CAUSE OF ACTION

15. The aforementioned acts and omissions of the Defendant have violated the Fair Debt Collection Practices Act (15 U.S.C. §1692 et seq.) as follows:
16. Defendant violated 15 U.S.C. §1692d and 15 U.S.C. 1692d(5) by repeatedly and continuously causing Plaintiff Schmidt’s telephone to ring with the intent to annoy, abuse and harass her.
17. Defendant violated 15 U.S.C. 1692g(a) by failing to provide Plaintiff Schmidt with a written notice of the subject debt and her rights as a “consumer.”
18. Because of the Defendant’s various aforementioned violations of the FDCPA, Plaintiff Sabrina L. Schmidt became extremely upset, anxious, frustrated and otherwise suffered from emotional distress.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Sabrina L. Schmidt respectfully requests that this honorable Court enter judgment against the Defendant for:

- (a) Actual damages, pursuant to 15 U.S.C. §1692k(a)(1);
- (b) Statutory damages of \$1,000.00, pursuant to 15 U.S.C. §1692k(a)(2)(A);
- (c) Costs and disbursements of this action, together with reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3); *and*
- (d) For any and all additional relief as this honorable Court may deem just and proper.

JURY DEMAND

Please take notice that Plaintiff Schmidt demands a trial by jury in this action.

Date: August 30, 2010

/s/Frank J. Borgese
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